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U.S. DISTRICT COURT E.D.N.Y.  
★ MAY 03 2011 ★

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

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SHIN WON KANG, *et al.*,

Plaintiffs,

**ORDER**

-against-

08-CV-4848 (SLT) (JMA)

INNO ASSET DEVELOPMENT, LLC,  
*et al.*,

Defendants

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**TOWNES, United States District Judge:**

In December 2008, plaintiffs Shin Won Kang, Kwang Ung Pak, Jin Man Kim, Su Hyuk Jang, Byung Hyun Ko, Peter Park, Zhong You Wang, Jiang Youde, Qiang Zhao, Cornelio Lojano, Patricio Siguencio, and Hernan Lopez (collectively, "Plaintiffs") commenced this action against their former employers, defendants Inno Asset Development, LLC; Blue Ocean Properties, LLC; Buildland Developers, LLC; Buildland Development, LLC; Jason Sung and In Young Lee (collectively, "Defendants"), alleging that Defendants had violated provisions of the Fair Labor Standards Act ("FSLA"), 29 U.S.C. § 201, *et seq.*, and New York Labor Law by intentionally failing to pay Plaintiffs the proper wages and overtime pay. Defendants answered the complaint and were represented by counsel until November 2, 2009, when Magistrate Judge Azrack ("Judge Azrack") granted Defendants' counsel's motion to withdraw from the case. *See* Order dated Nov. 2, 2009. In her November 2, 2009, order, Judge Azrack advised the corporate defendants that they could not proceed *pro se*, and directed them to retain counsel if they wished to continue to defend the action.

Defendants ultimately succeeded in retaining new counsel, who stipulated to permit Plaintiffs to amend the complaint.<sup>1</sup> However, Defendants thereafter failed to comply with Judge Azrack's discovery orders. Accordingly, in a report and recommendation dated October 19, 2010, Judge Azrack recommended that Defendants' pleadings be stricken pursuant to Fed. R. Civ. P. 37(b)(2)(A) as a sanction for Defendants' repeated refusal to comply with discovery orders. Defendants did not object to this report and recommendation and, by memorandum and order dated November 16, 2010, this Court adopted Judge Azrack's recommendations, struck Defendants' answer, and referred this matter to Judge Azrack for calculation of damages.

On January 28, 2011 – about one month after this Court granted Plaintiffs' counsel's motion to voluntarily dismiss the claims of plaintiffs Shin Won Kang and Zhong You Wang – Judge Azrack issued a second report and recommendation (the "Second R&R"). In that Second R&R, Judge Azrack recommended that the nine remaining plaintiffs be awarded a total of \$273,474.79. Judge Azrack also informed Defendants that they had fourteen days in which to file objections to the Second R&R.

To date, Defendants have not filed any objections. The Court is not required to review the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, by failing to file timely objections, Defendants have waived the right to appeal this Court's Order. *See* 28 U.S.C. § 636(b)(1); *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989).

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<sup>1</sup>Although the Amended Complaint named the same six defendants, Byung Hyun Ko was no longer named as a plaintiff.

### **CONCLUSION**

For the reasons stated above, Magistrate Judge Azrack's Report and Recommendation dated January 28, 2011, is adopted in its entirety. This Court directs the Clerk of Court to enter judgment against all six Defendants, jointly and severally, and in favor of plaintiff Kwang Ung Pak in the amount of \$2,823.10; in favor of plaintiff Jin Man Kim in the amount of \$51,603.97; in favor of plaintiff Su Hyuk Jang in the amount of \$19,875.42; in favor of plaintiff Peter Park in the amount of \$11,796.52; in favor of plaintiff Jiang Youde in the amount of \$36,169.97; in favor of Qiang Zhao in the amount of \$25,467.08; in favor of Cornelio Lojano in the amount of \$20,881.57; in favor of Patricio Siguencio in the amount of \$44,878.09; and in favor of Wuilmo Hernan Lopez<sup>2</sup> in the amount of \$59,979.07 – a total of \$273,474.79.

**SO ORDERED.**

s/ SLT  
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SANDRA L. TOWNES  
United States District Judge

Dated: April 29, 2011  
Brooklyn, New York

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<sup>2</sup>According to an affidavit filed in connection with Plaintiffs' request for damages, plaintiff Hernan Lopez's full name is Wuilmo Hernan Lopez.